

Division 3. Air Resources Board

Chapter 5. Standards for Motor Vehicle Fuels

Subchapter 8. Clean Fuels Program

§ 2308. Constructive Allocation of Retail Clean Fuel Outlets.

(a) Any owner/lessor of a retail gasoline outlet, and any person who is the owner/lessor of a retail clean fuel outlet which is not a retail gasoline outlet, may constructively allocate one or more retail clean fuel outlets to the owner/lessor of a retail gasoline outlet, for purposes of demonstrating compliance with the requirements in section 2302, as long as the requirements of this section are met.

(b) Any agreement to constructively allocate a retail clean fuel outlet pursuant to this section shall be in writing. The constructive allocation shall be in calendar year increments, and shall not cover less than one calendar year. The agreement shall be executed before the start of the first year of constructive allocation covered by the agreement.

(c) A retail clean fuel outlet may not be constructively allocated unless it meets any applicable dispensing capacity requirements set forth in section 2302(b).

(d) If the retail clean fuel outlet being constructively allocated is not a retail gasoline outlet, the person making the constructive allocation shall obtain prior approval from the executive officer. The executive officer shall approve the constructive allocation if s/he determines that the facility is adequately accessible for fueling motor vehicles by the general public with the designated clean fuel.

(e) Any person who constructively allocates a retail clean fuel outlet for a designated clean fuel shall be deemed to be the owner/lessor of that retail clean fuel outlet and shall be subject to the requirements of sections 2309(b) and (c)(1) during the period covered by the constructive allocation agreement.

(f) The owner/lessor of any retail clean fuel outlet which is constructively allocated shall notify the operator in writing that it is claimed to be equipped in order to satisfy the requirements of section 2302, as applicable.

(g) Any person who constructively allocates a retail clean fuel outlet to an owner/lessor shall submit a report to the executive officer by January 10 of each year covered by the constructive allocation agreement. The report shall be executed in California under penalty of perjury and shall contain the following information.

(1) The name, address and telephone number of the person making the constructive allocation.

(2) The street address of each retail clean fuel outlet constructively allocated, the type of designated clean fuel dispensed at the outlet, the business interest in the outlet of the person making the constructive allocation, and the brand, trade, or other name under which the business at the outlet is conducted.

(3) For each constructively allocated retail clean fuel outlet, the name and address of the owner/lessor to whom the outlet was constructively allocated, and the starting and ending dates of the constructive allocation.

(4) The name of the operator of the retail clean fuel outlet.

(h) Any owner/lessor who receives a constructive allocation of a retail clean fuel outlet shall submit a report to the executive officer by January 10 of each year covered by the constructive allocation agreement. The report shall be executed in California under penalty of perjury and shall contain the following information.

(1) The name, address and telephone number of the owner/lessor.

(2) The street address of each retail clean fuel outlet constructively allocated, the type of designated clean fuel dispensed at the outlet, and the brand, trade, or other name under which the business at the outlet is conducted.

(3) For each constructively allocated retail clean fuel outlet, the name and address of the person constructively allocating the outlet, and the starting and ending dates of the constructive allocation.

(4) A copy of the executed constructive allocation agreement.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

REFERENCE